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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission

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Cracker Barrel, however, insists on continuing this imbalance by conditioning its acquiescence to Primosphere's Motion on Cracker Barrel being allowed to "respond to Primosphere's late pleading."² Presumably, Cracker Barrel would submit yet another engineering analysis, further distorting the framework of the rulemaking process. Primosphere opposes this position for the same reason it moved to strike Cracker Barrel's initial Reply: Cracker Barrel may not ignore the Commission's rules and insert into the record material to which affected parties have no chance to respond.

The Commission enforces its rules governing comments and replies in order to preserve an orderly, fair and reasoned administrative process. By introducing in the reply comment period a new technical study totally unlike the study it submitted in its Comments, Cracker Barrel upset that order. In fairness to others, the Commission must either enforce Rule 1.45 and strike the new engineering in Cracker Barrel's October 13, 1995 Reply Comments or accept Primosphere's Response. To do otherwise would allow Cracker Barrel to introduce material into this proceeding that is untested by the critical scrutiny of affected parties. The Commission relies on this type of scrutiny to ensure the integrity and reliability of the rulemaking process. Cracker Barrel has failed to demonstrate why this process should be cast aside in this proceeding.

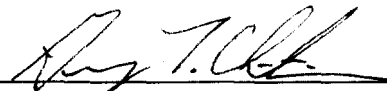
² Cracker Barrel Response, filed March 11, 1996 at 2.

For the reasons stated above, Primosphere requests that the Commission either accept its Response to Reply Comments filed by Cracker Barrel Old Country Store, Inc. or, in the alternative, strike Cracker Barrel's Reply.

Respectfully submitted,

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March 20, 1996

CERTIFICATE OF SERVICE

I, Andrew F. Taylor, hereby certify that on this 20th day of March, 1996, copies of the foregoing "Reply to Response to Motion to Accept Late Filed Pleading or, in the Alternative, to Strike Cracker Barrel's Reply" were mailed, postage prepaid, to the following:

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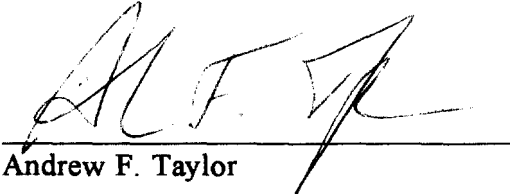
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